

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

LANCE CHARLES ANDERSON,

Plaintiff,

v.

WILLIAM STOCKWELL, et al.,

Defendants.

NO: 12-CV-0178-TOR

ORDER DENYING MOTIONS

BEFORE THE COURT are Plaintiff's Motion for Appointment of Counsel (ECF No. 5) and Motion for Protective Order (ECF No. 6). Plaintiff also filed a document titled "Motion in Support of Civil Rights Complaint By a Prisoner" which the Court construes as a memorandum in support of the complaint. Plaintiff, a prisoner at the Airway Heights Correction Center, is proceeding *pro se* and *in forma pauepris*; Defendants have not been served.

ORDER DENYING MOTIONS -- 1

1 Plaintiff did not note his motions for hearing as required by Local Rule for  
2 the Eastern District of Washington 7.1(h). Since this is the first time that Plaintiff  
3 has failed to do so, the Court has noted Plaintiff's motions for him on the date  
4 signed below. The motions were heard without oral argument. **PLAINTIFF IS**  
5 **CAUTIONED THAT ANY FURTHER MOTIONS SUBMITTED TO THE**  
6 **COURT WITHOUT NOTING THEM FOR HEARING IN COMPLIANCE**  
7 **WITH THE LOCAL RULES WILL NOT BE ADDRESSED BY THE**  
8 **COURT.**

#### 9 APPOINTMENT OF COUNSEL

10 This Court has discretion to designate counsel pursuant to 28 U.S.C.  
11 §1915(e)(1) only under exceptional circumstances. *Terrell v. Brewer*, 935 F.2d  
12 1015, 1017 (9th Cir. 1991). Determining whether exceptional circumstances exist  
13 requires evaluating "the likelihood of success on the merits and plaintiff's ability to  
14 articulate his claims *pro se* in light of the complexity of the legal issues involved."  
15 *Id.* (citation omitted).

16 Plaintiff asserts he needs the assistance of counsel to preserve his parental  
17 rights with his minor child. Because Federal District Court should abstain from  
18 exercising jurisdiction in domestic affairs, it would not be appropriate for this  
19 Court to designate counsel for that purpose. Plaintiff may seek counsel in an  
20 appropriate state or tribal court action.

1 Plaintiff contends his issues are complex and may require extensive legal  
2 expertise. By separate Order to Amend or Voluntarily Dismiss, the Court has  
3 provided Plaintiff with relevant legal standards and directed Plaintiff how to  
4 present a legally sufficient complaint. Accordingly, the record does not reflect  
5 exceptional circumstances which warrant the appointment of counsel to assist  
6 Plaintiff at this time. **IT IS ORDERED** Plaintiff's Motion for Appointment of  
7 Counsel (ECF No. 5) is **DENIED**.

8 **MOTION FOR PROTECTIVE ORDER**

9 Plaintiff also asks this Court to enjoin Defendants from taking retaliatory  
10 actions against him. Plaintiff's concerns appear speculative. In any event, this  
11 Court has no jurisdiction to address Plaintiff's motion until he has filed a legally  
12 sufficient complaint. *See generally* Fed. R. Civ. P. 3 and the notes following the  
13 rule. Furthermore, Defendants are not parties to a suit before being served with  
14 process. *See e.g. Neals v. Norwood*, 59 F.3d 530, 532 (5th Cir.1995).  
15 Accordingly, **IT IS ORDERED** Plaintiff's Motion for Protective Order (ECF No.  
16 6) is **DENIED**.

1       **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
2 Order and forward a copy to Plaintiff.

3       **DATED** this 28<sup>th</sup> day of June, 2012.

4                               *s/ Thomas O. Rice*

5                               THOMAS O. RICE  
6                               United States District Judge